

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA

WYETH,)	
)	
Plaintiff,)	
)	
v.)	WESTERN DIVISION
)	No. 5:07-CV-234-D
)	
SANDOZ, INC.)	
)	
Defendant.)	
_____)	

WYETH,)	
)	
Plaintiff,)	
)	
v.)	
)	
)	SOUTHERN DIVISION
OSMOTICA PHARMACEUTICAL)	No. 7:07-CV-67-D
CORP.,)	
)	
Defendant.)	
_____)	

ORDER

On September 20, 2007, plaintiff Wyeth filed a motion to consolidate Wyeth v. Osmotica Pharmaceutical Corp., Civil Action No. 7:07-CV-67-D, and Wyeth v. Sandoz, Inc., Civil Action No. 5:07-CV-234-D. On October 10, 2007, defendant Osmotica Pharmaceutical Corporation (“Osmotica”) responded in opposition. On October 12, 2007, defendant Sandoz, Inc. responded and consented to a consolidated claim construction hearing but opposed consolidated discovery or trial.

When there are two cases pending before the court that involve a common question of law or fact, the court may, in its broad discretion, consolidate the cases. See Fed. R. Civ. P. 42(a); A/S J. Ludwig Mowinckles Rederi v. Tidewater Constr. Co., 559 F.2d 928, 933 (4th Cir. 1977). Wyeth and Osmotica have already filed opening Markman briefs addressing claim construction issues, and a

hearing on these issues is scheduled before the court on January 22, 2008. The court has considered the motion and concludes that consolidation of these actions would result in undue delay that is not significantly offset by resulting convenience or economy in judicial administration. Plaintiff's motion to consolidate is DENIED.

SO ORDERED. This 2 day of November 2007.


JAMES C. DEVER III
United States District Judge